No. 15554

United States Court of Appeals

for the Ninth Circuit

SAM SNYDER,

Appellant,

vs.

ROBERT A. RIDDELL, District Director, Internal Revenue,

Appellee.

Transcript of Record

Appeal from the United States District Court for the Southern District of California, Central Division.

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.—7-19-57

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS

For Appellant:

GEORGE T. ALTMAN,
233 South Beverly Drive,
Beverly Hills, California.

For Appellee:

CHARLES K. RICE,
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LAUGHLIN E. WATERS,
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Assistant U. S. Attorney,
Chief, Tax Division;

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Assistant U. S. Attorney,
808 Federal Building,
Los Angeles 12, California.

The United States District Court, Southern District of California, Central Division

No. 20551-T

SAM SNYDER,

Plaintiff,

vs.

ROBERT A. RIDDELL, District Director of Internal Revenue,

Defendant.

SUIT FOR REFUND OF FEDERAL INCOME TAXES

Plaintiff brings this suit under Judicial Code as amended, 28 U.S.C., Section 1340, for refund of federal income taxes plus interest paid thereon together with interest on the amount paid as allowed by law and alleges as follows:

1. On or before March 15, 1946, plaintiff filed his individual federal income tax return for the year 1945 with the Collector of Internal Revenue for the Sixth District of California and paid taxes shown thereon in the amount of $4,300.69.

2. On March 23, 1948, plaintiff was assessed a deficiency in income tax for the year 1945 in the amount of $11,803.51 plus interest in the sum of $1,363.22, or a total of $13,166.73, the said interest being computed to February 18, 1948.

3. Prior to 1955 plaintiff made payments on said deficiency assessment as follows: September 15,

1949, $1,047.12; October 21, 1949, $1,000.00; November 25, 1949, $1,000.00; [2*] December 25, 1949, $1,000.00; January 25, 1950, $1,000.00; February 4, 1953, $700.47.

4. On December 6, 1955, plaintiff paid the balance of $7,419.14 of said assessment plus interest from March 15, 1948, to December 6, 1955, in the amount of $4,161.21, or a total of $11,580.35, the said amount being collected by defendant out of a judgment due plaintiff for refund of income taxes for the years 1943, 1944 and 1946.

5. In arriving at the said deficiency assessment the Commissioner of Internal Revenue computed the net income of plaintiff as $30,860.31, exclusive of net long-term capital gain of $3,500.00. In arriving at said amount of net income the Commissioner included in plaintiff's gross income $31,360.31 as income from a partnership known as California Car Company. Plaintiff had one exemption of $500.00.

6. The net income of the said partnership for 1945 was $48,916.72. The Commissioner treated three-fourths of that amount, or $36,687.54, as the distributive share of plaintiff and his wife and allocated therefrom to the plaintiff $31,360.31 and to his wife $5,327.23. Said allocation gave effect to the community property character of their income to the date of termination thereof by property settlement agreement, April 16, 1945.

***Page numbering appearing at foot of page of original Certified Transcript of Record.**

7. One-third of the said amount of $36,687.54, or $12,229.19, being one-fourth of the total partnership income of $48,916.72, had been reported by plaintiff's daughter, Geraldine Snyder Weinrich, as her income, on her own income tax return.

8. The said amount of $12,229.18 was correctly the income of the said Geraldine Snyder Weinrich and was not income of plaintiff and his wife. (See Snyder v. Westover, C.A. 9, 217 F. (2d) 928, determining that such share was includable in said daughter's gross income and that no part was includable in plaintiff's gross income.) One-third of the said amount of [3] $31,360.31, or $10,453.44, was therefore erroneously included by the Commissioner in the gross income of plaintiff.

9. Correcting plaintiff's net income for said error, his total tax liability for the year 1945 was $9,557.85, or $5,257.16 more than the amount paid by plaintiff on his return. Interest on said amount of $5,257.16 to February 18, 1948, the date to which interest was computed under said deficiency assessment, is $581.19, making the total correct deficiency to said date $5,838.35. It results that the said deficiency assessment of $13,166.73 was excessive to the extent of $7,328.38.

10. The correct amount of the unpaid assessment for 1945 as of December 6, 1955, was, therefore, instead of $7,419.14 plus interest of $4,161.21, as follows: Deficiency, $5,838.35; payments to date, $5,747.59; balance of deficiency, $90.76; interest as

follows: On $5,838.35 from March 23, 1948, to September 15, 1949; on $4,791.23 from September 15, 1949, to October 21, 1949; on $3,791.23, from October 21, 1949, to November 25, 1949; on $2,791.23, from November 25, 1949, to December 25, 1949; on $1,791.23, from December 25, 1949, to January 25, 1950; on $791.23, from January 25, 1950, to February 4, 1953; on $90.76, from February 4, 1953, to December 6, 1955, or a total of interest in the amount of $774.49, so as to make the total of tax and interest still due on December 6, 1955, $865.25.

11. By collecting, instead of said amount of $865.25, the sum of $11,580.35 on said date, December 6, 1955, out of the refunds due plaintiff for other years, defendants collected $10,715.10 too much.

12. On March 26, 1956, plaintiff filed claim for refund for the said amount of $10,715.10, together with interest thereon as allowed by law.

13. The ground of said claim for refund is stated therein as follows: [4]

"Ground of this claim is that the determination of said deficiency is erroneous in that it resulted from the erroneous inclusion in claimant's gross income of the share of his daughter, Geraldine Snyder Weinrich, in the income of a partnership, California Car Company. See Snyder v. Westover, C.A. 9, 217 Fed. 2d 928, determining that said share was includable in said daughter's gross income and not in his."

14. No action has been taken by the Commissioner of Internal Revenue or by defendant on said claim for refund.

Wherefore, plaintiff prays for judgment in his favor as follows: Refund of $10,715.10 plus interest thereon as allowed by law, together with his costs and disbursements in this action.

/s/ GEORGE T. ALTMAN,
Attorney for Plaintiff.

[Endorsed]: Filed October 2, 1956. [5]

[Title of District Court and Cause.]

ANSWER

Comes now the defendant, Robert A. Riddell, District Director of Internal Revenue, and for answer to the complaint admits, alleges and denies as follows:

Defendant denies the allegations contained in the preliminary unnumbered paragraph of the complaint.

1.

Defendant admits the allegations contained in paragraph numbered 1 of the complaint.

2.

Defendant admits the allegations contained in paragraph numbered 2 of the complaint.

3.

Defendant admits the allegations contained in paragraph numbered 3 of the complaint. [6]

4.

Defendant admits the allegations contained in paragraph numbered 4 of the complaint.

5.

Defendant admits the allegations contained in paragraph numbered 5 of the complaint.

6.

Defendant admits the allegations contained in paragraph numbered 6 of the complaint.

7.

Defendant admits the allegations contained in paragraph numbered 7 of the complaint.

8.

Defendant denies the allegations contained in paragraph numbered 8 of the complaint.

9.

Defendant denies the allegations contained in paragraph numbered 9 of the complaint.

10.

Defendant denies the allegations contained in paragraph numbered 10 of the complaint.

11.

Defendant denies the allegations contained in paragraph numbered 11 of the complaint.

12.

Defendant admits that plaintiff filed a claim for refund as alleged in paragraph numbered 12 of the complaint. Except as specifically admitted in this answer defendant denies each and every allegation and statement contained in said claim for refund.

13.

Defendant admits that the claim for refund contained a statement of grounds therefor as alleged in paragraph numbered 13 [7] of the complaint. Except as specifically admitted in this answer defendant denies each and every allegation or statement of grounds set forth in said claim for refund.

14.

Defendant admits the allegations contained in paragraph numbered 14 of the complaint.

Second Defense

15.

For a Separate, Alternative and Affirmative Defense of Res Judicata, defendant alleges that the issues herein have previously been litigated between the same parties hereto for the same year, 1945; that said litigation, Sam Snyder v. Robert A. Riddell, S. D. Cal., Civil No. 13523-Y, a suit for refund of income taxes paid for the year 1945, resulted in a final decision and judgment for the same defendant, Robert R. Riddell, entered in this court July 22, 1952, from which no appeal was taken; that the plaintiff is barred from relitigating his tax liability

for the year 1945 and estopped by judgment from maintaining this action.

Wherefore, defendant prays that this action be dismissed with costs to the defendant.

LAUGHLIN E. WATERS,
United States Attorney;

EDWARD R. McHALE,
Assistant United States Attorney, Chief, Tax Division;

ROBERT H. WYSHAK,
Assistant United States Attorney;

/s/ ROBERT H. WYSHAK,
Attorneys for Defendant.

Affidavit of Service by Mail attached.

[Endorsed]: Filed December 19, 1956. [8]

[Title of District Court and Cause.]

NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT

To the Defendant, Robert A. Riddell, and to Laughlin E. Waters, United States Attorney; Edward R. McHale, Assistant United States Attorney; Robert H. Wyshak, Assistant United States Attorney, His Attorneys:

You and Each of You Will Please Take Notice that the plaintiff will bring the within motion on

for hearing before this Court in Courtroom 7, before the Honorable Leon R. Yankwich, United States District Judge, United States Post Office and Courthouse Building, 312 North Spring Street, Los Angeles, California, on the 11th day of March, 1957, at 10:00 a.m. of said day or as soon thereafter as counsel can be heard.

Plaintiff moves the Court as follows:

For summary judgment herein on the basis of res judicata and collateral estoppel. [10]

For that purpose plaintiff attaches hereto the following:

(1) Requested findings of fact.

(2) Affidavit in support of requested findings of fact.

(3) Requested conclusions of law.

(4) Judgment and certificate of probable cause.

(5) Memorandum of points and authorities.

/s/ GEORGE T. ALTMAN,
Attorney for Plaintiff. [11]

[Title of District Court and Cause.]

REQUESTED FINDINGS OF FACT

1. On or before March 15, 1946, plaintiff filed his individual federal income tax return for the year 1945 with the Collector of Internal Revenue

for the Sixth District of California and paid taxes shown thereon in the amount of $4,300.69. [Complaint herein, par. 1, admitted by answer.]

2. On March 23, 1948, plaintiff was assessed a deficiency in income tax for the year 1945 in the amount of $11,803.51 plus interest in the sum of $1,363.22, or a total of $13,166.73, the said interest being computed to February 18, 1948. [Complaint herein, par. 2, admitted by answer.]

3. Plaintiff paid said deficiency assessment as follows:

Dated	Amount
September 15, 1949	$ 1,047.1
October 21, 1949	1,000.0
November 25, 1949	1,000.0
December 25, 1949	1,000.0
January 25, 1950	1,000.0
February 4, 1953	700.4
December 6, 1955	7,419.1
Total	$13,166.7

On December 6, 1955, plaintiff also paid interest o said amounts from March 15, 1948, to the dates o payment, the said interest so paid being the sum o $4,161.21. [Complaint herein, pars. 3 and 4, ad mitted by answer.] The said payments made Sep tember 15 and October 21, 1949, were made to Harr C. Westover, as Collector of Internal Revenue fo the Sixth District of California. The remaining pay ments were made to defendant as Collector or Di trict Director of Internal Revenue for the Sixt

District of California. [Findings, par XIX, Docket 13521-Y.]

4. In arriving at the said deficiency assessment the Commissioner of Internal Revenue computed the net income of plaintiff as $30,860.31, exclusive of net long-term capital gain of $3,500.00. In arriving at said amount of net income the Commissioner included in plaintiff's gross income $31,360.31 as income from a partnership known as California Car Company. Plaintiff had one exemption of $500.00. [Complaint herein, par 5, admitted by answer.]

5. The net income of the said partnership for 1945 was $48,916.72. The Commissioner treated three-fourths of that amount, or $36,687.54, as the distributive share of plaintiff and his wife and allocated therefrom to the plaintiff $31,360.31 and to his wife $5,327.23. Said allocation gave effect to the community property character of their income to the date of termination thereof by property settlement agreement, April 16, 1945. [Complaint herein, par. 6, admitted by answer.]

6. One-third of the said amount of $36,687.54, or [13] $12,229.18, being one-fourth of the total partnership income of $48,916.72, had been reported by plaintiff's daughter, Geraldine Snyder Weinrich, as her income, on her own income tax return. [Complaint herein, par 7, admitted by answer.]

7. Of the said sum of $12,229.18 reported by plaintiff's daughter, Geraldine Snyder Weinrich, as

her own income on her own income tax return, the sum of $10,453.44 (being one-third of the sum of $31,360.31 referred to in finding 5 above) was treated by the Commissioner as the income of plaintiff and the balance of said amount of $12,229.18 (being one-half of 106/365 thereof), as the income of plaintiff's wife. [Findings, par XVIII, Docket 13521-Y.]

8. If such treatment by the Commissioner of the said amount of $10,453.44 as income of plaintiff was erroneous then plaintiff's total tax liability for the year 1945 was $9,557.85, and the deficiency assessment in the amount of $11,803.51 for tax and $1,363.22 for interest shown in finding 2 should instead have been $5,257.16 for tax and $604.57 for interest, so that the total assessment on March 23, 1948, should have been $5,861.73 instead of the sum of $13,166.73. [See computation by Internal Revenue Service attached hereto as Exhibit A.]

9. On March 13, 1950, plaintiff filed with the Collector of Internal Revenue for the Sixth District of California claims for refund of income tax covering the years 1943, 1944, 1945 and 1946. [Findings, par. XX, Docket 13521-Y.]

10. The grounds set forth in the claim for 1945 were as follows:

"The deficiency assessment results from addition to claimant's gross income by the Revenue Agent of an amount of $18,934.89 as additional income from a partnership, California Car Company. The

aid amount, however, was not income of this claimnt, but the income of his daughter, Geraldine Snyler Weinrich. [14]

"The agent also included in claimant's gross inome an amount of $1,750 as gain resulting from he sale of property. This also is erroneous. The Revenue Agent failed to adjust the basis of the roperty to reflect the cost of the one-half acquired nder a property settlement agreement." [Complaint, Docket 13521-Y, Second Cause of Action, ar. 15, admitted by answer therein.]

11. The claims for 1943, 1944 and 1946 also lleged the same error of inclusion in plaintiff's inome of additional income from said partnership which plaintiff contended was the income of his laughter, Geraldine Snyder Weinrich. [Complaint, Docket 13521-Y, Second Cause of Action, pars. 10, 12, 17, admitted by answer therein.]

12. All of the said claims were disallowed on September 21, 1951, under the provisions of Sec. 3772(a)(2) of the Internal Revenue Code of 1939. [Complaint, Docket 13521-Y, Second Cause of Action, par. 18, admitted by answer therein.]

13. Thereafter, on September 27, 1951, plaintiff filed suit for refund against Harry C. Westover in this Court, Docket No. 13521-Y, for refund of all payments made on deficiency assessments for the years 1943, 1944, 1945 and 1946, except for the three payments of $1,000.00 each made to his successor in office, defendant herein, on November 25, 1949; De-

cember 25, 1949, and January 25, 1950, referred to in finding 3 above. The said suit against Harry C. Westover claimed refund of the payments made for the year 1945 on September 15, 1949, and October 21, 1949, in the sums of $1,047.12 and $1,000.00, respectively. On the same date a suit was filed against his successor in office, defendant herein, as Docket No. 13523-Y, for the said three payments of $1,000.00 each made on November 25, 1949; December 25, 1949, and January 25, 1950. [Complaints Dockets 13521-Y and 13523-Y.]

14. The said two suits, together with a corresponding action brought by plaintiff's ex-wife Becky Snyder, were [15] consolidated for trial. [Dockets 13521-Y, 13522-Y, 13523-Y.]

15. On June 13, 1952, plaintiff filed a trial brief. In said brief, plaintiff conceded that with respect to any period after April 16, 1945, the income involved was not community property. [Said brief, p. 6, lines 18-20.] In his opening statement at the trial plaintiff's attorney also struck the issue of gain resulting from the sale of property. [Transcript of Proceeding, p. 11.] At the trial there remained as to this plaintiff for the year 1945 only the question whether the said sum of $10,453.44, referred to in finding 7 above, was includable in the gross income of the said Geraldine Snyder Weinrich or in the gross income of plaintiff. [Findings, par. XX, Docket 13521-Y.]

16. On June 23, 1952, this Court ordered judgment for plaintiff in both of said proceedings, that

is, in Sam Snyder v. Harry C. Westover, Docket No. 13521-Y, and in Sam Snyder v. Robert A. Riddell, Docket No. 13523-Y. This court ruled against plaintiff on the issue whether the income reported by the said Geraldine Snyder Weinrich as derived from the partnership, California Car Company, was includable in her gross income or in the gross income of plaintiff, holding that the said income was includable in the gross income of plaintiff, but ruled in favor of plaintiff on all other issues preserved at the trial. Thereafter, on July 2, 1952, plaintiff filed a motion to correct the order for judgment and order thereon in the said Docket No. 13523-Y so as to show judgment for defendant instead of judgment for plaintiff. Thereupon, defendant filed in said docket proposed findings of fact and conclusions of law, and on July 17, 1952, plaintiff filed objections thereto reading as follows:

"The findings of fact and conclusions of law proposed by defendant herein are erroneous in that in this docket the issue of the family partnership was moot, and judgment is properly entered on the basis of the admissions of the [16] plaintiff now contained in the record.

"This docket involved only three tax payments of $1,000 each, in respect to the year 1945. In relation to that year, plaintiff conceded in his trial brief, that his return for 1945 was in error in that the income after April 16, 1945, was not community income. Making that correction alone, judgment in this docket would have been in favor of defendant.

A recomputation of tax based on the assumption that the family partnership issue was decided in favor of the plaintiff is attached hereto, showing that even in the event of such a decision, no refund was due the plaintiff in this docket. It follows that, as to this docket, the family partnership issue was moot.

"Plaintiff submits that the defendant's proposed findings of fact, conclusions of law and judgment should be disregarded and judgment entered for defendant on the basis of plaintiff's admissions of error referred to above."

[Record, Dockets 13521-Y and 13523-Y.]

17. Whether the said income of $10,453.44 from the partnership, California Car Company, was includable in the gross income of Geraldine Snyder Weinrich or in the gross income of plaintiff, there was, based upon the record otherwise in said proceeding, Docket No. 13523-Y, no overpayment of tax by plaintiff at the opening of trial, nor until December 6, 1955. [See computation by Internal Revenue Service attached hereto as Exhibit A.]

18. This court signed the findings as proposed and on July 22, 1952, judgment was entered for defendant in the said Docket 13523-Y as follows: "That the Defendant have judgment against the Plaintiff for the dismissal of the action and for Defendant's costs taxed in the sum of $30.50." [Record, Docket 13523-Y.] [17]

19. On September 8, 1952, defendant filed notice of appeal in the said proceeding of Sam Snyder v

Harry C. Westover, Docket No. 13521-Y. On September 10, 1952, plaintiff filed notice of cross-appeal in the said proceeding. Thereafter defendant withdrew his appeal but plaintiff perfected his appeal. [Record, Docket 13521-Y.] No appeal was taken from the judgment, as entered, in Docket No. 13523-Y. [Record, Docket 13523-Y.]

20. The findings in the proceeding appealed, that is, Docket No. 13521-Y, covered all four years, 1943 to 1946, inclusive. [See said findings.] In the opinion of the Court of Appeals, reported at 217 F. 2d 928, the statement of facts based upon the findings was in part as follows:

"In January, 1943, Geraldine, the daughter, came to Los Angeles and worked full time for the partnership, but after a few weeks, because of the rough and uncouth character of the salesmen, she worked only in the business in the evenings while her father was present, and by day in a department store. The business stayed open until 10:00 o'clock each night, and she performed during the evening many of the same duties that Wallace performed during the day. Appellant-taxpayer could only sign his name and read large, simple print, while Geraldine, on the other hand, was trained in commercial and office practice and had held responsible positions. Her work at the place of business during the evenings consisted of doing the office work, and she explained the monthly auditor's reports to her father and discussed with him such questions as the level of operating expenses, including commissions, the size of

the inventory, the reduction of financing, etc. She continued to perform the services mentioned until her retirement from the business some time after the close of World War II. [18]

"In June, 1944, Geraldine invested in the business as a partner, $1,320.00, and in February, 1945, an additional $700.00. These monies were derived from her salary earnings in Denver and Los Angeles. She made no withdrawals from the business during that period. She reported her one-fourth share of the partnership income on returns filed by her and paid the taxes thereon.

"In February, 1943, Geraldine married a man who was in the Navy during the entire war period. Since her husband was not stationed in Los Angeles after the marriage Geraldine remained and continued her active participation in the business until her husband and brother were discharged some time after the close of the War. At this time her husband and brother entered into business full time, and Geraldine retired to raise a family.

"On April 16, 1945, appellant-taxpayer's wife divorced him and it is concluded that the income derived from the partnership business up until the date of the divorce was the community property of himself and his wife.

"The issue of this case arises from the fact that the commissioner refused to recognize Geraldine as a partner and included her share of the partnership earnings in the income of plaintiff-taxpayer

for the years 1942, 1943, part of 1945, and 1946, and in the income of taxpayer and his wife for 1944, and part of 1945."

21. The Court of Appeals reversed the judgment of this court in that proceeding. The mandate of the said court was filed in this court on January 24, 1955. The said court held that Geraldine's one-fourth share of the income of the partnership, California Car Company, was includable in her gross income and not in the gross income of plaintiff. No petition for certiorari was [19] filed by the government in the said proceeding. [Record in that proceeding, Docket No. 13521-Y.]

22. Thereafter, on March 29, 1955, the judgment of this court in that proceeding was entered, as revised to conform to the opinion of the Court of Appeals. Under said judgment, as so revised, refunds were ordered for all years except 1945. [Record in Docket 13521-Y.] For 1945, the tax assessed had not yet been paid in full. [Complaint herein, pars. 3 and 4, admitted by answer.] At the time of the entry of judgment as so revised in Docket 13521-Y, and excluding the said amount of $10,453.44 referred to in finding 7 from the gross income of plaintiff, there was still no overpayment for 1945 on the basis of the record in either Docket 13521-Y or Docket 13523-Y. [See computation by Internal Revenue Service attached hereto as Exhibit A.]

23. Pursuant to the judgment as so revised the United States made refunds to plaintiff for the years 1943, 1944 and 1946 and out of the refunds

due collected, on December 6, 1955, the remaining unpaid assessment for 1945 in the amount of $7,419.14 together with interest in the amount of $4,161.21 from March 15, 1948, to the dates of collection, or a total of $11,580.35. [Complaint herein, par. 4, admitted by answer.]

24. On March 26, 1956, plaintiff filed a claim for a refund of $10,715.10 out of the said amount of $11,580.35, together with interest as allowed by law from December 6, 1955. [Complaint herein, par. 12, admitted by answer.] The ground of said claim was stated therein as follows:

"Ground of this claim is that the determination of said deficiency is erroneous in that it resulted from the erroneous inclusion in claimant's gross income of the share of his daughter, Geraldine Snyder Weinrich, in the income of a partnership, California Car Company. See Snyder v. Westover, C.A. 9, 217 Fed. 2d 928, determining [20] that said share was includable in said daughter's gross income and not in his."

[Complaint herein, par. 13, admitted by answer.]

The parties now agree that if plaintiff's position is correct the amount of such refund should be $10,650.12, plus interest thereon as allowed by law from December 6, 1955.

25. No action has been taken by defendant or by the Commissioner of Internal Revenue on the said claim for refund. [Complaint herein, par. 14, admitted by answer.] [21]

Lam Snyder - 1965

Computation of Overpayment or Credit

Date to Pat	Amt Pat		Remaining Balance	Int Date. 3 mos	Int Date. 2a.	Amt. Accrued
		Rec'd Int. 8/5/49	5[illegible]716 60457			
			586173	7/19/49	9/16/49	5586 [illegible]
9/16/49	100477		481461	9/16/49	10/26/49	3610 [illegible]
[illegible]/49	100000		381461	10/26/49	11/28/49	1907 05
11/49	100000		281461	11/28/49	12/23/49	1407 05
12/3/49	100000		181461	12/23/49	1/23/50	907 05
1/1/50	100000		81461	1/23/50	2/4/53	14867 [illegible]
1/1/53	90047		11414	2/4/53	12/6/55	3[illegible]5 [illegible]
12/1/55	11414		-0-			
	Total Prts due - Principal				586173	
	Interest				81609	
	Total -				667782	
	Total paid or credited				1737794	
	Amt of Overpmt or Credit.				1065012	
	Amount Claimed per Snyder				1071510	
	Difference				6498	

Exhibit A

due collected, on December 6, 1955, the remaining unpaid assessment for 1945 in the amount of $7,419.14 together with interest in the amount of $4,161.21 from March 15, 1948, to the dates of collection, or a total of $11,580.35. [Complaint herein, par. 4, admitted by answer.]

24. On March 26, 1956, plaintiff filed a claim for a refund of $10,715.10 out of the said amount of $11,580.35, together with interest as allowed by law from December 6, 1955. [Complaint herein, par. 12, admitted by answer.] The ground of said claim was stated therein as follows:

"Ground of this claim is that the determination of said deficiency is erroneous in that it resulted from the erroneous inclusion in claimant's gross income of the share of his daughter, Geraldine Snyder Weinrich, in the income of a partnership, California Car Company. See Snyder v. Westover, C.A 9, 217 Fed. 2d 928, determining [20] that said share was includable in said daughter's gross income and not in his."

[Complaint herein, par. 13, admitted by answer.]

The parties now agree that if plaintiff's position is correct the amount of such refund should be $10,650.12, plus interest thereon as allowed by law from December 6, 1955.

25. No action has been taken by defendant or by the Commissioner of Internal Revenue on the said claim for refund. [Complaint herein, par. 14, admitted by answer.] [21]

Sam Snyder - 1945

Computation of Overpayment or Credit

Date	Amt Paid		Opening Balance	Int Date Prior	Int Date To	Amt Allowed
		Int. 2/4/49	54716 60457			
			586173	2/14/49	9/14/49	5586.08
9/49	100000		481461	9/16/49	10/26/49	3610.00
49	100000		381461	10/26/49	11/28/49	1903.06
49	100000		281461	11/28/49	12/23/49	1607.06
49	100000		181461	12/23/49	1/23/50	907.05
50	100000		81461	1/23/50	2/4/53	1587.98
53	70047		11414	2/4/53	12/6/55	3245.48
55	11414		-0-			

Total Prts due - Principal	586173
Interest	81494
Total -	667757
Total paid or credited	1737794
Amt of Overpmt or Credit.	1065017
Amount Claimed per Snyder	1071510
Difference	6493

Exhibit A

Sam Snyder. 1945.

Computation of Partnership Share of Earnings

Partnership Income Earned - 1945				4891677
Dist. to partners -	Sam Snyder		50%	2445836
	Bernard Snyder		25%	1222918
	Benedict Stamell		25%	1222918
Total dist -				4891677

Sam Snyder Community Allocation

Total Earned			2445836
Community	106/365 x	2445836 =	710798
Separate	259/365 x	2445836 =	1735538

	Total	Sam	Becky
Community	710798	355149	355149
Separate	1735538	1735538	
	2446336	2090687	355149

Partnership Income Per RAR -	3136081
Partnership Income per Attorney	2090687
Difference	1045394

Sam Snyder. 1945

Partnership Income -	20906.87
Capital Gain	350000
Adj. Gross Income -	20906.87
Deductions - Standard	5000
Net Income -	23906.87
Personal Exemptions	5000
Income Subject to Normal Tax & Surtax.	23906.87
Normal Tax @ 3% -	717.21
Surtax on 23906.87	274.05
Total Normal Tax & Surtax	991.26

Alternative Tax.

Net Income	23906.87
Less Capital Gain	350000
Ordinary Net Income	20906.87
Less Personal Exemptions	5000
Ordinary Net Income Subject to Normal & Surtax.	15906.87
Normal Tax @ 3%	477.21
Surtax on 15906.87	210.64
Total Tax	687.85
50% of Long Term Capital Gain	175000
Alternative Tax	862.85
Alternative Tax per Return	430.69
Difference	431.16
Refund due Altman	431.16

[Title of District Court and Cause.]

AFFIDAVIT IN SUPPORT OF REQUESTED FINDINGS

State of California,
County of Los Angeles—ss.

George T. Altman, being first duly sworn, deposes and says:

1. That he is attorney for plaintiff in the above-entitled action.

2. That all of the requested findings supporting the motion for summary judgment filed on February 15, 1957, were prepared by him.

3. That the said requested findings accurately reflect the sources indicated therein.

4. That the computation attached to the said requested findings as Exhibit A was prepared by the Internal Revenue Service, [24] was furnished to affiant by counsel for defendant, and correctly and accurately reflects the factors shown therein.

/s/ GEORGE T. ALTMAN.

Subscribed and sworn to before me this 14th day of February, 1957.

[Seal] /s/ BEVERLY J. COYLE,
Notary Public in and for Said County and State. [25]

[Title of District Court and Cause.]

REQUESTED CONCLUSIONS OF LAW

I.

The judgment of this Court entered March 29, 1955, in Snyder v. Westover, Docket No. 13521-Y is conclusive of the issues in this proceeding on the basis of res judicata and collateral estoppel.

II.

The income reported by Geraldine Snyder Weinrich for the year 1945 as her share of the income of a partnership, California Car Company, was not includable in the gross income of plaintiff for the purpose of federal income tax.

III.

Plaintiff is entitled to a refund of the sum of $10,650.12 together with interest on said amount as allowed by law from December 6, 1955.

[Endorsed]: Filed February 15, 1957. [26]

[Title of District Court and Cause.]

NOTICE OF MOTION FOR SUMMARY JUDGMENT AND MOTION FOR SUMMARY JUDGMENT

To the Plaintiff, Sam Snyder, and to George Altman, His Attorney:

You, and Each of You, Will Please Take Notice that on Monday, March 11, 1957, at 10:00 o'clock

a.m., or as soon thereafter as counsel can be heard, in Courtroom No. 7, before the Honorable Leon R. Yankwich, Chief Judge, in the Post Office and Court House Building, 312 North Spring Street, Los Angeles, California, the defendant, Robert A. Riddell, District Director of Internal Revenue, by and through his attorneys herein mentioned, will make the following motion for summary judgment:

The defendant, Robert A. Riddell, moves the Court to enter summary judgment against the plaintiff and for the defendant, dismissing the action on the ground there is no genuine issue as to any material fact in this action and that defendant is entitled to judgment as a matter of law as appears from the pleadings, exhibits, the briefs submitted herewith, and the affidavit of Forrest P. [33] Calkins, attached hereto and made a part hereof.

Dated: February 15, 1957.

LAUGHLIN E. WATERS,
United States Attorney;

EDWARD R. McHALE,
Assistant United States Attorney, Chief, Tax Division;

ROBERT H. WYSHAK,
Assistant United States Attorney, Assistant Chief, Tax Division;

/s/ ROBERT H. WYSHAK,
Attorneys for Defendant.

[Endorsed]: Filed February 15, 1957. [34]

[Title of District Court and Cause.]

AFFIDAVIT OF SAM SNYDER

County of Los Angeles,

State of California—ss.

Sam Snyder, being first duly sworn, deposes and says:

(1) That he was the plaintiff in Sam Snyder v. Harry C. Westover, Docket No. 13521-Y in the Federal District Court at Los Angeles, and that he was also the plaintiff in Sam Snyder v. Robert A. Riddell, Docket No. 13523-Y in the same court.

(2) That with respect to his individual income taxes for the year 1945, the reason why he made no payments after January 25, 1950, on the deficiency assessed by the Commissioner for that year in March, 1948, was that because of overpayments of tax already made on other years he had completely run out of funds and any further payments by him could only have been made at the cost of ruinous and irreparable injury to his business. [53]

(3) That the said inability to pay continued until December, 1955, when he received refunds of taxes erroneously collected from him for the years 1943, 1944 and 1946.

/s/ SAM SNYDER.

Subscribed and sworn to before me this 1st day of March, 1957.

[Seal] /s/ BEVERLY J. COYLE,
Notary Public in and for Said County and State.

[Endorsed]: Filed March 6, 1957. [54]

[Title of District Court and Cause.]

PLAINTIFF'S OBJECTIONS TO FINDINGS AS PROPOSED BY DEFENDANT

Plaintiff objects to defendant's requested findings on the ground that they are seriously incomplete and do not state all of the essential facts. A complete statement of the essential facts is contained in the findings as requested by plaintiff in support of his motion for summary judgment.

Plaintiff submits also that under local Rule 3(d)(2) (third paragraph), no objections having been filed by defendant to plaintiff's requested findings, the findings for the purpose of this court's denial of plaintiff's motion for summary judgment should be as requested by plaintiff.

Respectfully submitted,

/s/ GEORGE T. ALTMAN,
Attorney for Plaintiff.

Affidavit of Service by Mail attached.

[Endorsed]: Filed March 12, 1957. [56]

[Title of District Court and Cause.]

NOTICE OF MOTION AND MOTION TO BASE ACTION ON PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT ON FINDINGS AS PROPOSED BY PLAINTIFF

To the Defendant, Robert A. Riddell, and to Laughlin E. Waters, United States Attorney; Edward R. McHale, Assistant United States Attorney; Robert H. Wyshak, Assistant United States Attorney, His Attorneys:

You and Each of You Will Please Take Notice, that the plaintiff will bring this motion on for hearing before this Court in Courtroom 7, before the Honorable Leon R. Yankwich, United States District Judge, United States Post Office and Courthouse Building, 312 North Spring Street, Los Angeles, California, on the 25th day of March, 1957, at 10:00 a.m. of said day or as soon thereafter as counsel can be heard.

Plaintiff moves the Court to base its order on plaintiff's motion for summary judgment on the findings as requested by plaintiff.

No objections were filed by defendant to the findings [58] requested by plaintiff. It follows necessarily that for the purpose of this Court's denial of plaintiff's motion for summary judgment the findings should be as requested by plaintiff.

Defendant has submitted, however, for the Court's signature a document entitled, "Order De-

nying Plaintiff's Motion for Summary Judgment" based upon, not the findings of fact and conclusions of law filed by plaintiff, but the findings of fact and conclusions of law filed by defendant. If defendant takes issue with the findings of fact which plaintiff proposed, then no summary judgment can be granted at all.

Respectfully submitted,

/s/ GEORGE T. ALTMAN,
Attorney for Plaintiff.

Affidavit of Service by Mail attached.

[Endorsed]: Filed March 14, 1957. [59]

[Title of District Court and Cause.]

MINUTES OF THE COURT MARCH 18, 1957

Present: Hon. Leon R. Yankwich, District Judge.

Proceedings:

Minute Order

Objections of the plaintiff to the proposed findings of fact of the defendant are overruled and the court now signs said proposed findings of fact, conclusions of law and judgment heretofore lodged on Feb. 15, 1957, and orders them filed.

The Court orders vacated the notice of hearing on March 25, 1957, of Motion of the Plaintiff to

base action on Plaintiff's Motion for Summary Judgment on Findings Proposed by Plaintiff, and orders said motion denied summarily. Attention is called to the fact that under rule 7a only the Judge of the Court may call for a hearing on the findings and objections. The Court does not deem said hearing necessary.

JOHN A. CHILDRESS,
Clerk. [62]

United States District Court for the Southern District of California, Central Division

No. 20551-Y Civil

SAM SNYDER,

Plaintiff,

vs.

ROBERT A. RIDDELL, District Director of Internal Revenue,

Defendant.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND SUMMARY JUDGMENT

The above-entitled matter having come on for hearing on the defendant's motion for summary judgment before the Honorable Leon R. Yankwich, Chief Judge; the plaintiff represented by his attorney, George Altman, and the defendant by his attorneys, Laughlin E. Waters, United States Attorney; Edward R. McHale, Assistant United States

Attorney, Chief, Tax Division, and Robert H. Wyshak, Assistant United States Attorney, and the Court having considered the affidavits, exhibits and authorities submitted makes its findings of fact and conclusions of law as follows:

Findings of Fact

I.

On or before March 15, 1946, plaintiff filed his individual federal income tax return for the year 1945 with the Collector of Internal Revenue for the Sixth District of California and paid [65] taxes shown thereon in the amount of $4,300.69.

II.

On March 23, 1948, there was assessed against plaintiff a deficiency in income tax for the year 1945 in the sum of $11,803.51 plus interest in the sum of $1,363.22 computed to February 18, 1948.

III.

Plaintiff paid said assessment as follows:

Date	Amount
September 15, 1949	$ 1,047.12
October 21, 1949	1,000.00
November 25, 1949	1,000.00
December 25, 1949	1,000.00
January 25, 1950	1,000.00
February 4, 1953	700.47
December 6, 1955	7,419.14
Total	$13,166.73

On December 6, 1955, plaintiff also paid interest in the sum of $4,161.21. The said payments made September 15 and October 21, 1949, were made to Harry C. Westover as Collector of Internal Revenue for the Sixth District of California. The remaining payments were made to the defendant.

IV.

In arriving at the aforementioned deficiency, the Commissioner of Internal Revenue computed the net income of the plaintiff as $30,860.31, exclusive of net long-term capital gains of $3,500.00. In arriving at said net income the Commissioner included in gross income $31,360.31, as income from a partnership known as California Car Company. Plaintiff had one exemption of $500.00.

V.

The net income of said partnership for the year 1945 was $48,916.72. The Commissioner treated three-fourths of that amount, [66] or $36,687.54, as the distributive share of plaintiff and his wife, and allocated therefrom to the plaintiff $31,360.31 and to his wife $5,327.23.

VI.

One-third of the said amount of $36,687.54, or $12,229.18, had been reported by plaintiff's daughter, Geraldine Snyder Weinrich, as her income on her own income tax return.

VII.

Of the said sum of $12,229.18 reported by plaintiff's said daughter, the sum of $10,453.44 (one-

third of the sum of $31,360.31 referred to in finding No. V above) was treated by the Commissioner as the income of plaintiff and the balance of said amount of $12,229.18, as the income of plaintiff's wife.

VIII.

On March 13, 1950, plaintiff filed with the Collector of Internal Revenue for the Sixth District of California claims for refund of taxes for the years 1943, 1944, 1945 and 1946.

IX.

The grounds set forth in the claim for 1945 were in pertinent part as follows:

"The deficiency assessment results from addition to claimant's gross income by the Revenue Agent of an amount of $18,934.89 as additional income from a partnership, California Car Company. The said amount, however, was not income of this claimant, but the income of his daughter, Geraldine Snyder Weinrich.

"The agent also included in claimant's gross income an amount of $1,750 as gain resulting from the sale of property. This also is erroneous. The Revenue Agent failed to adjust the basis of the property to reflect the [67] cost of the one-half acquired under a property settlement agreement."

X.

The claims for 1943, 1944 and 1946 also alleged the same error of inclusion in plaintiff's income of

additional income from said partnership which plaintiff contended was the income of his daughter, Geraldine Snyder Weinrich.

XI.

All of the said claims were disallowed on September 21, 1951, under the provisions of § 3772(a)(2) of the Int. Rev. Code of 1939.

XII.

Thereafter, on September 27, 1951, plaintiff filed suit for refund against Harry C. Westover, former Collector of Internal Revenue, in this Court, Docket No. 13521-Y, for refund of all payments made of assessments for the years 1943, 1944, 1945 and 1946, except for three payments credited to his taxes for the year 1945 of $1,000.00 each made to his successor in office, Robert A. Riddell, defendant herein, on November 25, 1949; December 25, 1949, and January 25, 1950, referred to in paragraph III hereinabove. The said suit against Harry C. Westover claimed refund of the said payments made for the year 1945 on September 15, 1949, and October 21, 1949, in the sums of $1,047.12 and $1,000.00, respectively. On the same date a suit was filed against his successor in office, Robert A. Riddell, defendant herein, as Docket No. 13523-Y, for the said three payments on his taxes for the year 1945 of $1,000.00 each made on November 25, 1949; December 25, 1949, and January 25, 1950.

XIII.

The said two suits, together with a corresponding action brought by plaintiff's ex-wife, Becky Snyder, were consolidated for trial. [68]

XIV.

On June 23, 1952, this Court filed its decisions in both of said proceedings, that is, Sam Snyder v. Harry C. Westover, Docket No. 13521-Y, and Sam Snyder v. Robert A. Riddell, Docket No. 13523-Y. Thereafter, on July 2, 1952, plaintiff filed a motion to correct the order for judgment and order thereon in the said Docket No. 13523-Y so as to show judgment for defendant instead of judgment for plaintiff. Thereupon, defendant filed in said docket proposed findings of fact and conclusions of law.

This Court signed the findings as proposed and on July 22, 1952, judgment was entered for defendant in the said Docket No. 13523-Y as follows: "That the Defendant have judgment against the Plaintiff for the dismissal of the action and for Defendant's costs taxed in the sum of $30.50."

XV.

On September 8, 1952, defendant filed notice of appeal in the said proceeding of Sam Snyder v. Harry C. Westover, Docket No. 13521-Y. On September 10, 1952, plaintiff filed notice of cross-appeal in the said proceeding. Thereafter defendant withdrew his appeal but plaintiff perfected his appeal. The opinion of the Court of Appeals for the Ninth Circuit has been reported at 217 F. 2d 928.

XVI.

No appeal was taken from the judgment in Docket No. 13523-Y, which has now become final.

XVII.

Thereafter, the judgment of this Court in Docket No. 13521-Y was revised to conform to the opinion of the Court of Appeals. Under said judgment, as so revised, refunds were ordered for the years 1943, 1944 and 1946.

XVIII.

Pursuant to the judgment as so revised the United States made refunds to plaintiff for the years 1943, 1944 and 1946 and out [69] of the refunds due collected, on December 6, 1955, the remaining unpaid assessment for 1945 in the amount of $7,419.14 together with interest in the amount of $4,161.21 from March 15, 1948, to the dates of collection, or a total of $11,580.35.

XIX.

On March 26, 1956, plaintiff filed a claim with the District Director of Internal Revenue for refund of taxes and interest of $10,715.10 for the year 1945 on the ground that "the determination of said deficiency is erroneous in that it resulted from the erroneous inclusion of claimant's gross income of the share of his daughter, Geraldine Snyder Weinrich, in the income of a partnership, California Car Company. See Snyder v. Westover, C.A. 9, 217 Fed. 2d 928, determining that said share was includible

in said daughter's gross income and not in his." Said claim has not been disallowed.

XX.

The grounds on which this latter claim is based are the same as the grounds for the claim filed for the year 1945 on March 13, 1950, on which the prior action, Docket No. 13523-Y, against Robert A. Riddell, defendant herein, was based and which, after trial, resulted in a final judgment for the defendant.

XXI.

The plaintiff in this action seeks to relitigate his tax liability for the year 1945.

XXII.

Every conclusion of law deemed to be a finding of fact is hereby found as a fact.

Conclusions of Law

I.

This Court has jurisdiction of the subject matter and the parties hereto.

II.

Each tax year constitutes a separate cause of action and [70] a taxpayer may not subsequently relitigate his tax liability after a final judgment against him.

U. S. v. C. C. Clark, Inc.,
159 F. 2d 489 (5th Cir.), cert. denied 331 U. S. 818 (1947);

Guettel v. U. S.,
95 F. 2d 229 (8th Cir.), cert. denied 305 U. S. 603 (1938);

Western Maryland Ry. Co. v. U. S.,
23 F. Supp. 554 (D. Md., 1938).

III.

The plaintiff is barred by res adjudicata from seeking a refund of income taxes and interest for the year 1945 on the ground that the family partnership of which he was a member should be recognized for tax purposes, since a final judgment in a prior action for refund of taxes for the same year on the same ground resulted in a judgment against him, from which no appeal was taken.

IV.

The plaintiff cannot collaterally attack the judgment on the merits in the prior action since the court there had jurisdiction.

V.

The defendant is entitled to judgment dismissing the complaint with prejudice together with his costs in the sum of $.....

VI.

Every finding of fact deemed to be a conclusion of law is hereby concluded as a matter of law.

Summary Judgment

In accordance with the foregoing Findings of Fact and Conclusions of Law,

It Is Hereby Ordered, Adjudged and Decreed that the complaint be dismissed with prejudice and with costs of defendant [71] in the sum of $20.00 to be taxed by the Clerk of the Court.

Dated: March 18, 1957.

/s/ LEON R. YANKWICH,
United States District Judge.

Affidavit of Service by Mail attached.

Lodged February 15, 1957.

[Endorsed]: Filed March 18, 1957.

Docketed and entered March 22, 1957. [72]

[Title of District Court and Cause.]

NOTICE OF APPEAL

Notice is hereby given that plaintiff, Sam Snyder, hereby appeals to the Court of Appeals for the Ninth Circuit from the order in the above-entitled case denying plaintiff's motion for summary judgment and granting defendant's motion for summary judgment, which order was entered on March 22, 1957.

Dated this 8th day of April, 1957.

/s/ GEORGE T. ALTMAN,
Attorney for Plaintiff.

[Endorsed]: Filed April 8, 1957. [74]

[Title of District Court and Cause.]

STATEMENT OF POINTS ON WHICH PLAINTIFF INTENDS TO RELY

Plaintiff submits the following statement of points on which he intends to rely in this appeal:

1. The judgment of dismissal in Sam Snyder v. Robert A. Riddell, Docket No. 13523-Y of this court, is not res judicata in this proceeding.

2. If such judgment is res judicata in this proceeding then it was a bar to the collection on December 6, 1955, of the tax involved in this action and said collection was for that reason erroneous and illegal.

3. The judgment in Docket No. 13521-Y of this court, as modified pursuant to mandate of the Court of Appeals for the Ninth Circuit in Sam Snyder v. Harry C. Westover, 217 F. 2d 928, is dispositive of the case here on the basis of collateral estoppel.

4. The District Court had no power to enter summary [76] judgment because the facts were in dispute.

/s/ GEORGE T. ALTMAN,
Attorney for Plaintiff.

Affidavit of Service by Mail attached.

[Endorsed]: Filed May 1, 1957. [77]

[Title of District Court and Cause.]

DOCKET ENTRIES

1956

Oct. 2—Fld complt for refund of $10,715.10 in Fed Income Taxes. Issd sums. Md JS-5.

Oct. 10—Fld ord of Trans purs to Low Number Rule transfg case to calendar of Judge Thurmond Clarke for all fur procs. Attys Notifd.

Oct. 12—Fld sums retn svd.

Dec. 4—Fld stip & ord thereon extendg time for deft to plead to 12/19/56.

Dec. 12—Fld Ord Trans case to calendar Judge Leon R. Yankwich purs Rule 2 for all fur predgs. Attys ntfd.

Dec. 19—Fld answer.

Dec. 20—Placed on settg calen for hrg 1/7/57, 10:00 a.m. Counsel notifd.

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Jan. 7—Procs for settg. Ord settg off calendar.

Feb. 15—Fld mot for sums judgt with not mot retble 3/11/57, 10:00 a.m. & with requested finds fact, requested concls law & proposed judgt. Fld defts mot for sum judgt with not mot retble 3/11/57 & lodged defts proposed finds fact, concls law & judgt.

Feb. 20—Fld US Mars retn on writ (mot & not of mot for summy jgmt) Retnd svd.

Feb. 26—Fld defts reply brief.

Mar. 6—Fld pltfs reply brief.

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Mar. 11—Ent procs ct hrd stmt of counsel and mot pltf for summy judg denied. Mot deft for summy judgt granted. Counsel pltf 5 days to object to finds fact, concls law and judgment presented to the court by deft.

Mar. 12—Lodged defts proposed ord denyg pltfs mot for summy judgment. Fld pltfs objecs to findings as proposed by deft.

Mar. 14—Fld mot to base action on pltfs mot for sum judgt on finds as proposed by pltf with not mot retble 3/25/57 & memo pts & auths.

Mar. 15—Fld defts memo in opposn to mot to base action on pltfs mot for summy judgt on finds as proposed by pltf.

Mar. 18—Ent min ord objecs of pltf to proposed finds of deft denied; proposed finds of deft signed and ord filed; not of mot pltf to base action on pltfs mot for summy judg on finds proposed by pltf vacated and mot denied summarily. Counsel notified.

Mar. 18—Fld ord deny plfs mot for summary judg. Ent 3/22/57 & not attys.) Fld finds fact & concl law & summary judg dismiss compl with prej & with costs fv deft. (Ent 3/22/57 & not attys.) JS6.

Mar 26—Fld defts cost bill & fld not of entry summy judgment.

Apr. 1—Taxed costs $20.00 No objections.

Apr. 8—Filed notice of appeal.

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May 1—Fld defts appellee's counter-designation contents record on appeal Fld desig of contents rec on appeal & fld state pts on wh pltf intends to reply & fld personal bond for costs on appeal secured by cash dep $250.00. Dep cert check for $250.00 in Regy.

[Title of District Court and Cause.]

CERTIFICATE BY CLERK

I, John A. Childress, Clerk of the above-entitled Court, hereby certify that the items listed below constitute the transcript of record on appeal to the United States Court of Appeals for the Ninth Circuit, in the above-entitled cause:

A. The foregoing pages numbered 1 to 86, inclusive, containing the original:

Complaint;

Answer;

Motion & Notice of Motion for Summary Judgment;

Requested Findings of Fact;

Affidavit in Support of Requested Findings;

Requested Conclusions of Law;

Motion & Notice of Motion for Summary Judgment;

Plaintiff's Reply Brief;

Affidavit of Sam Snyder;

Plaintiff's Objections to Findings as Proposed by Defendant;

Notice of Motion and Motion to Base Action on Plaintiff's Motion for Summary Judgment on Findings as Proposed by Plaintiff;

Minutes of the Court for March 18, 1957;

Order Denying Plaintiff's Motion for Summary Judgment;

Findings of Fact, Conclusions of Law and Summary Judgment;

Notice of Appeal;

Statement of Points on Which Plaintiff Intends to Rely;

Defendant-Appellee's Counter-Designation of Contents of Record on Appeal;

Designation of Contents of Record on Appeal;

and a full, true and correct copy of the Docket Entries.

I further certify that my fee for preparing the foregoing record, amounting to $1.60, has been paid by appellant.

[Seal] JOHN A. CHILDRESS,
Clerk;

/s/ CHARLES E. JONES,
Deputy.

[Endorsed]: No. 15554. United States Court of Appeals for the Ninth Circuit. Sam Snyder, Appellant, vs. Robert A. Riddell, District Director, Internal Revenue, Appellee. Transcript of Record. Appeal from the United States District Court for the Southern District of California, Central Division.

Filed May 17, 1957.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for the Ninth Circuit.